IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY**

**WRIT PETITION NO : 25292 of 2004**

Between:

M.K.Mohinuddin (M.K.Moinuddin) S/o Mohd. Hasham
R/o MCH. No.16-9-581/1 Old Malakpet, Hyderabad.

**..... PETITIONER**

AND

1 The Asst. Divisional Engineer (Electricity) Central Power Distribution company of AP., Ltd., D-XXII C-VIII, Chanchalguda, Hyderabad.
2 The Inspector of Police Vigilance and AP.TS. Vidyuth Soudha, Hyderabad.
3 The Superintending Engineer (Asst.)AP., Transco Vidyuth Soudha, Hyderabad.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus or any other appropriate writ declaring the action of respondent No.1 issuing the provisional assessment/Notice (Pilferage) ADE/D-XXII/C-VIII/D.No.1102 dt. 26/11/2004 in respect the of D.No.16-9581/1/2, estimated the value of pilferaged Rs. 36175-69 and pay Rs. 18087-84 (being half the above estimated amount and plus reconnect the charges Rs. 50/- is illegal unjust, arbitrary unconstitutional and against the principles of natural justice.

**Counsel for the Petitioner: MR.M.T.GHORI**

**Counsel for the Respondents: SMT.M.VINOBHA DEVI**

**The Court at the stage of admission made the following ORDER:**

Petitioner was issued an order of provisional assessment dated 26.11.2004 indicating that he has resorted to acts of pilferage and the loss is assessed at Rs.36,175/-. He was also directed to pay half of the amount in case he wants the continuation of power supply. The petitioner alleges that the respondents are taking steps to disconnect the power supply in case the amount indicated in the impugned order is not paid.

Heard learned counsel for the petitioner and learned standing counsel for the respondents.

As on today, the petitioner is served with only an order of provisional assessment. It has to be followed by a show cause notice and thereafter an order of final assessment. It is only when an order of final assessment is passed that the petitioner can be held liable to pay the amount indicated therein. A consumer cannot be fastened with any liability on the strength of an order of provisional assessment. A Division Bench of this Court has taken such a view and the same has been followed by this Court in number of cases.

Hence, the writ petition is disposed of directing that the respondents shall not disconnect the power supply to the petitioner on the ground that he did not pay the amount indicated in the provisional assessment order. It is, however, directed that the petitioner shall be liable to pay the regular consumption charges and his liability in relation to the acts of pilferage alleged against him would depend on the findings recorded in the order of final assessment. There shall be no order as to costs.

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31.12.2004

ksld

**To**

1 The Asst. Divisional Engineer (Electricity) Central Power Distribution company of AP., Ltd., D-XXII C-VIII, Chanchalguda, Hyderabad.
2 The Inspector of Police Vigilance and AP.TS. Vidyuth Soudha, Hyderabad.
3 The Superintending Engineer (Asst.)AP., Transco Vidyuth Soudha, Hyderabad.

4 Two C.D. Copies.